

AMENDED IN ASSEMBLY MAY 3, 2012

AMENDED IN ASSEMBLY APRIL 16, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 19, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2009**

---

---

**Introduced by Assembly Member Galgiani**

February 23, 2012

---

---

An act to amend Section 104900 of the Health and Safety Code, relating to communicable disease.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2009, as amended, Galgiani. Communicable disease: influenza vaccinations.

Under existing law, the State Department of Public Health administers various programs for the protection of public health. The department provides a biennial report to the Legislature on the immunization status of young children in California.

Existing law requires the State Department of Public Health to provide appropriate flu vaccine to local governmental or private nonprofit agencies at no charge in order that the agencies may provide the vaccine, at a minimal cost, at accessible locations in the order of priority first for all persons 60 years of age or older in this state and then to any other high-risk groups identified by the United States Public Health Service. The department and the California Department of Aging are required to prepare, publish, and disseminate information regarding the

availability of the vaccine and the effectiveness of the vaccine in protecting the health of older persons.

This bill would *eliminate the priority order described above and would, instead, give priority to persons within high-risk groups, as defined by the department based upon specified federal recommendations or, in the absence of these recommendations, based upon the need to protect persons who are at the greatest risk of harm from the influenza virus require the department to provide guidance to local agencies as to whether one or more population groups are to have priority for the flu vaccine offered through this program, as specified. The bill would exempt these provisions from the Administrative Procedure Act.* The bill would make findings and declarations regarding the transmission of influenza by children to adults and the elderly.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) The federal Centers for Disease Control and Prevention
- 4 (CDC) recommend annual seasonal influenza vaccination for all
- 5 persons six months of age and older.
- 6 (b) Current law related to prioritization for influenza vaccines
- 7 is outdated and needs to be updated to reflect current CDC
- 8 recommendations.
- 9 (c) Children have the highest rates of influenza infection and
- 10 schoolaged children are the major vectors for influenza
- 11 transmission that spread the virus to adults and the elderly in the
- 12 community.
- 13 (d) Eligible low-income and uninsured children can access
- 14 vaccine at no cost through the federally funded Vaccines for
- 15 Children (VFC) Program.
- 16 SEC. 2. Section 104900 of the Health and Safety Code is
- 17 amended to read:
- 18 104900. (a) The department shall provide appropriate flu
- 19 vaccine to local governmental or private, nonprofit agencies at no
- 20 charge in order that the agencies may provide the vaccine, at a
- 21 minimal cost, at accessible locations ~~in the order of priority to~~
- 22 ~~persons within high-risk groups, as defined by the department,~~

1 ~~based upon the influenza recommendations of the federal Centers~~  
2 ~~for Disease Control and Prevention or, in the absence of federal~~  
3 ~~recommendation, based upon the need to protect persons who are~~  
4 ~~at the greatest risk of harm from the influenza virus. The~~  
5 ~~department and the California Department of Aging shall prepare,~~  
6 ~~publish, and disseminate information regarding the availability of~~  
7 ~~the vaccine and the effectiveness of the vaccine in protecting the~~  
8 ~~health of older persons. In administering this section, the~~  
9 ~~department shall provide guidance to local agencies as to whether~~  
10 ~~one or more population groups shall have priority for the flu~~  
11 ~~vaccine offered through this program. In developing this guidance,~~  
12 ~~the department shall consider the influenza recommendations of~~  
13 ~~the federal Centers for Disease Control and Prevention or other~~  
14 ~~criteria in order to ensure that the vaccination program is efficient~~  
15 ~~and effective in meeting public health goals. Any guidance issued~~  
16 ~~pursuant to this subdivision shall be exempt from the rulemaking~~  
17 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~  
18 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~  
19 ~~2 of the Government Code).~~

20 (b) The department may provide appropriate pneumonia vaccine  
21 to local governmental or private nonprofit agencies at no charge  
22 in order that the agencies may provide the vaccine, at a minimal  
23 cost, at accessible locations for groups identified as high risk by  
24 the United States Public Health Service.

25 (c) The program shall be designed to use voluntary assistance  
26 from public or private sectors in administering the vaccines.  
27 However, local governmental or private, nonprofit agencies may  
28 charge and retain a fee not exceeding two dollars (\$2) per person  
29 to offset administrative operating costs.

30 (d) Except when the department determines that it is not feasible  
31 to use federal funds due to excessive administrative costs, the  
32 department shall seek and use available federal funds to the  
33 maximum extent possible for the cost of the vaccine, the cost of  
34 administering the vaccine, and the minimal fee charged under this  
35 section, including reimbursement under the Medi-Cal program for  
36 persons eligible therefor to the extent permitted by federal law.

37 (e) Administration of the vaccine shall be performed by a  
38 physician, a registered nurse, or a licensed vocational nurse acting  
39 within the scope of their professional practice acts. The physician  
40 under whose direction the registered nurse or a licensed vocational

1 nurse is acting shall require the nurse to satisfactorily demonstrate  
2 familiarity with (1) contraindication for the administration of these  
3 immunizing agents, (2) treatment of possible anaphylactic  
4 reactions, and (3) the administration of treatment and reactions to  
5 these immunizing agents.

6 (f) A private, nonprofit volunteer agency whose involvement  
7 with an immunization program governed by this section is limited  
8 to the provision of a clinic site or promotional and logistical support  
9 pursuant to subdivision (c), or any employee or member thereof,  
10 shall not be liable for any injury caused by an act or omission in  
11 the administration of the vaccine or other immunizing agent to a  
12 person 60 years of age or older or to members of high-risk groups  
13 identified by the United States Public Health Service, if the  
14 immunization is performed pursuant to this section in conformity  
15 with applicable federal, state, or local governmental standards and  
16 the act or omission does not constitute willful misconduct or gross  
17 negligence. As used in this subdivision, “injury” includes the  
18 residual effects of the vaccine or other immunizing agent. It is the  
19 intent of the Legislature in adding this subdivision to affect only  
20 the liability of private, nonprofit volunteer agencies and their  
21 members that are not health facilities, as defined in Section 1250.

22 (g) This section shall not be construed to require physical  
23 presence of a directing or supervising physician, or the examination  
24 by a physician of persons to be tested or immunized.